



OFFICE of the ATTORNEY GENERAL
GREG ABBOTT

February 5, 2003

Mr. Steven D. Monté
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
2014 Main Street, Room 501
Dallas, Texas 75201

OR2003-0754

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 176056.

The Dallas Police Department (the "department") received a request for any information pertaining to a named individual. Although you have released some responsive information, you claim that the submitted documents are excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 also incorporates the doctrine of common-law privacy. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989), where an individual's criminal history information has been compiled or summarized by a governmental entity, the information takes on a character that implicates the individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Thus, when a requestor asks for unspecified information concerning a certain named individual and that individual is a possible suspect, arrestee, or defendant, a law enforcement agency must withhold this information under section 552.101 because that individual's privacy right has been implicated. *See id.* In this instance, we believe that the named individual's right to privacy has been implicated by the request. Thus, to the extent the department has any records in which the named individual is identified as a possible suspect, arrestee, or offender, the department must withhold these records under section 552.101 of the Government Code and *Reporters Committee*. We also

note that, in this instance, the named individual is not listed as a suspect in service report number 623962-U. Therefore, we find that this information does not implicate an individual's right to privacy as a compilation of criminal history information. As such, the department must release service report number 623962-U.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Heather Ross".

Heather Pendleton Ross
Assistant Attorney General
Open Records Division

HPR/sdk

Ref: ID# 176056

Enc: Submitted documents

c: Ms. Rosalie McDonald
5608 Flamingo Drive
Rowlett, Texas 75088
(w/o enclosures)